

Previous references.

Courts 100 of 04-05

Slts 1-4, B. May 05.

Same file slts 1-3, 49, 99/10

B. Aug 07. Later references.

Same file slts 13-15 B. Jan 08

1907.

( Courts )

File No. 94 of 06.

Serial Nos. 4, 5, 6, 7  
8, 10, 12.

## GENERAL AND REVENUE SECRETARIAT.

Serial Nos. 4 - 8; 10 & 12.

Part B. for Nov. 07.

### SUBJECT.

Advance of Rs 1900 required for payment to the munsifs  
in Misc. No 584 of 1903-04 on the file of the District  
Judge of Mysore.

### Table of Contents

From  
The Registrar, Chief Court. No 2916/150 D/26.11.06  
Forwards copy of a letter from the District Judge of Mysore  
containing detailed report as to the circumstances under  
which the sale list of the revenues of the case were lost and  
states that it is good for the Govt. to decide as to what action  
should be taken with respect to the. Retired D. Judge  
Rameswamy Esq regarding the loss of money realised  
the sale of jewels owned by him.

To the same. No. 9/1630 D/13.12.06

G. R. S. 58

Requests him to obtain from the explanation  
Mr Rameswamy Esq on the various points referred  
to in the letter of the present D. Judge of Mysore

6 From the same NO 6339/218 dt 6-2-07  
forward in original the explanation of the  
Mrs. Ramaswamy Iyer.

7 To the same NO 92677 dt 5-3-07  
Requests him to furnish Govt. with the  
views of the Chief Court on the various points  
urged by Mrs. Ramaswamy Iyer in his explanation  
and to forward a copy of the proceedings of the Chief  
Court in respect of the minor officials referred to in  
Paras 5 of St no 4.

8 From the same NO 5873/271 dt 17-4-07  
Forwarded copies of the opinions of the judges  
in regard to Mrs. Ramaswamy Iyer's explanation  
and states that as regards minor officials copy of the  
order when passed will be forwarded for the  
information of Govt.

11 To the Registrar, Chief Court, the Comptroller & Mrs. Ramaswamy Iyer.  
NO 9893-95 dt 19-8-07

Directs that the amount realised by the sale  
of the jewels and other property which has not been  
accounted for be recovered from Mrs. Ramaswamy Iyer  
periodic in monthly instalments of Rs 250 per month  
the Chief Court to report the exact amount of the loss and  
awaits the report promised by the Chief Court as regards  
the conduct of the other officials of the St. Court in the matter.

To the Registrar, Chief Court. NO 91235 dt 17-10-07  
Returns the records

12 From the same  
Forwarded for the information of Govt. a copy of  
the Chief Courts' proceedings as required in para  
9 of St. NO 983-95

1906.

## GENERAL AND REVENUE SECRETARIAT.

( III  
Courts. )

## NOTES.

CS File No. 94-06

## FILE HEADING.

Advance of Rs 1900/- required for payment to the minors in  
Mise. No 584 of 1903-04 on the file of the Dt Judge, Mysore Su.

From

The Registrar, Chief Court

No. 2916  
150

Dated 26.11.06 Received 30.11.06

Diary No. 1300Enclos. 1<sup>st</sup> Spare Copies nil  
two Records

Serial No. 4

## BRIEF ABSTRACT OF LETTER.

forwards a copy of letter No 1652/294 of 13.11.06 from the Dt Judge,  
Mysore Su containing a detailed report as to the circumstances under which the Sale list  
& the report of the Receiver in the case were lost and states that it is for the Govt to  
decide as to what action should be taken with respect to the retired Dt Judge Mr  
Ramabany Dyer regarding the loss of money realized in the sale of the jewels ordered by him.

## NOTES AND ORDERS.

Subd for orders. This is a reply to G.O No J 1136/ds  
94-06-2 of 31.10.06 calling for a report in the matter  
of the loss of the records & as to who should be held  
responsible for the money apparently embezzled  
The previous file was submitted to the Secy on 30/11/06.

Serial  
No.

Subd for order. The explanation of Mr M. Ramaswamiya may be called for.

SR

3/12/06

in draft submitted to Secy for  
approval W  
— 4/12/06

3 An order at this interlocutory  
stage is inappropriate. Since  
the draft letter I have put up

W

7/12/06

- 5 To the Secy Ch. Ct. No. 1630 of 13.12.06  
Requests that the explanation of Mr M. Ramaswami  
Iyer, retired District Judge on the various points  
referred to in the present District Judge's  
report may be obtained & submitted.

- 6 From the Registrar of the Chief Court in Mysore  
No 4339 of 6/2/07  
218  
forward in Original the explanation of Mr  
M. Ramaswami Iyer.

It is argued by Mr Ramaswami Iyer  
that the loss should fall either on the receiver

Suo  
18/12/06  
18/1/07

Serial  
No.

acc on the estate of the minors.

Submitted for orders

2nd VNF

14/2/07

The Registrar of the Chief Court in his letter no- 2916, of 20th Nov. 1906, intimated <sup>150</sup> that in the opinion of the Chief Court, Mr Ramaswami Iyer, the late Judge, failed to take any precautions when he entrusted the jewels to the Receiver and that Mr Ramaswami Iyer could have prevented the loss if he took care to see that the money realized by the sale of the jewels was only remitted to the Treasury. The explanation of Mr Ramaswami Iyer is now submitted without any observation or opinion of the Chief Court. May the Registrar be asked to favour Govt with the views of the Chief Court on the various points urged by Mr Ramaswami Iyer?

VNF)

W.

15/2/07  
This may be done. Please submit

Serial  
No.Draft of the 19-C.F. ~~and the 19-C.F.~~15  
12/2

16-2-07

15

16/4/07

Submitted with a draft

was sent 19/4/07 ✓ Sub: 19-C.F. 15

Appd 26/2/07 20/4/07

Done 26-2-07

15

7 To the Regr & the Chief Court & Secy 26/4/07  
No 92677 of 5/3/07.

Request him to furnish report with the views  
of the Chief Court on the various points  
urged by Mr. M. Ramaswami Iyer. Also  
to send session judge his explanation and  
to forward a copy of the proceedings of the  
Chief Court in respect of the minor officials  
referred to in para 5 of 8204

8 From the Registrar & the Chief Court  
No 5873 of 17.4.07

271  
Forwards copies of the opinions of the Judge  
in regard to Mr. Ramaswami Iyer's  
explanation and states that as regards  
minor officials copy of the order passed

2123  
21-2-078-15  
4/3/07

Serial  
No.

will be forwarded for the information of  
Government.

10 May the subsequent reference promised  
by the Chief Court be awaited  
ms. JH  
26/4/07 Subd for order

11 Pending the receipt of the order of the  
Chief Court regarding the misconduct  
of the Mysore District Court whose  
conduct has been animadverted on  
by the District Judge, the question of  
the responsibility of ~~the~~ the District  
Judge may be considered.

12 All the Judges of the Chief Court  
are agreed that Mr. Ramaswami Iyer's  
explanation is unsatisfactory and  
that ~~therefore~~ the loss sustained is attributable  
to ~~his~~ dereliction of duty on his part.

13 Mr. Ramaswami Iyer's opinion that  
neither the Govt. nor the presiding Judge has  
any legal obligation to make good the  
loss sustained by the minor appears to  
be the correct one. If Govt. admits the moral  
responsibility to make good the loss, ~~that~~ it would  
not be unreasonable to recover the amount  
advanced by them from the ~~official~~ officer to  
whose negligence the loss is due—

See.

See 99  
G.P.B.—10,000—18-1-07

27-4-07

Serial  
No.

Legal obligations apart, I think that the minors should certainly be reimbursed the loss which they have been put, and that the officer through whose culpable negligence & want of supervision the loss was in a great measure due should be called upon to make it good —

20 Dec 1906 (v) *[Signature]*  
30/4

2760  
30.4.1907

In view of the remarks contained in the minutes of the Judges, the course which the Govt. has adopted seems the clear — That is (1) to reimburse the loss which the minors have sustained from the public treasury, and to recover it as far as may be possible from Anantaram's estate — (2) to take cognizance of the Judge Mr. Nannan's decision of the departmentally —

As to (1), payment may be made — As to (2) the precedents referred to in Mr. Justice Krishna Rao's case may be put up and, with a view thereof the subject may be brought up at Council meeting (if the Dewan approves) along with

Serial  
No.

with Mr. Narasimany Venkatesh  
- from papers - ~~with~~  
20/11/07

Put up the precedents referred to, as that of  
certain officers in the Bangalore (Munsiff's  
Court) and a short précis,  
and then submit to the Secy. Bangalore  
in neasas - 20/11/07

US  
20/11/07

in  
20/11/07

Precedents referred to have been put up.

They refer to defalcations of money aggregating  
Rs 12,137-7-8 <sup>respective</sup> in the Munsiff's  
Court at Nelamangala and the Principal  
Munsiff's Court at Bangalore, the  
officers that were primarily responsible  
for the said defalcations were 1) H. Krishna  
Das, Head Munsiff of the former court  
and (2) Bhendraschkharsiya, Nagi of  
the latter court. These two officers were  
criminally prosecuted and convicted and  
a sum of Rs 300 was recovered from the  
sureties of the Head Munsiff and a decree  
for Rs 300 and costs was obtained against  
the Nagi. Government, however, did not  
absolve the presiding officers of the said courts

Serial  
No.

could not  
one ~~kind~~ cannot exonerate the Munsiff  
from responsibility in respect of other  
work duty pertaining to him.

The following were the Officers  
who had to reimburse the loss in the  
amounts specified against each name.

A. Nelamangala Munsiff Court.

Mr B. S. Krishnaswamiengar. 1114. 6-7.

2. " P. A. Siva Prakashan Pille 823. 6-11

Total Rs 1937-13-6

B. Bangalore Munsiff Court.

1. Mr Singanathan - Rs 2887. 6-5

2. " Vanderlowen - Rs 2089. 10-10

3. " Sreenivasappa. - Rs 4,195. 6-5

4. " A. Subrahmanya Iyer. Rs 75. - - -

5. " J. S. A. D' Cruz - - Rs 3. - - -

Total 12,090-7-8  
which does not include the sum of Rs 47  
of which Mr B. Namaswami Iyengar  
was absolved. This had to be recovered

from the Officers in the manner prescribed

in G.O. nos 91626-7 dt 16/4/03, 304-10  
9.9.24.799.00

dt 1/8/03 and 1007-9 dt 14/11/03.  
7.24.799.00

In the present instance Mr  
Namaswami Iyer seems to admit in  
paras 18 to 20 that his supervision  
over the conduct of the Receiver

Serial  
No.

was somewhat superficial.

Submitted for order with Mr  
Ramanamany Iyer's Pension papers.

23/5/07 25/5/07

Dewan

25/5

4902  
26.5.07

2- I am extremely sorry  
that those papers were  
not placed before Mr  
Gartien. Bring the  
matter before the next  
Council 1/5/1907

Circulate to Councilors

seen 3/6/07

seen 4/8/07

2/8 3.8

supervision and failure to apply the ordinary checks". In the circumstances of the present case whatever may be the legal rights of the minors in question to recover the value of the property from Mr. Ramaswami Iyer or from Government by civil suit, the Council is of opinion that Government is morally bound to reimburse to the minors the value of the property lost, and that Mr. Ramaswami Iyer is responsible to Government for the consequences of a gross dereliction of his duty as a Government servant.

The amount in question - estimated at  $\text{X}$  over Rs. 2,000 - may be recovered from Mr. Ramaswami Iyer's pension in monthly instalments of of Rs. 250.

(Sd) V. P. Madhava Rao,  
Deewan of Mysore.

Extract  
CS Balasundaramurthy  
Offg. Secretary to Govt.

*Submitted to His Highness.*

*S*      2      The facts of the case are clearly explained in District Judge Mr. Venkatavardan Iyengar's letter No.1652/294 dated the 13th November 1906.

2<sup>nd</sup>.      One Deviri a Sivachar prostitute of Nanjan-gud died in January 1904, leaving 3 minor children and certain property. The question of the right to the guardianship of the children and to the management of the property came up for adjudication before the District Judge of Mysore in Mis. case No.584 of 03-04. Mr. Ramaswami Iyer, the presiding Judge, passed an order directing the production of the property of the deceased in Court, and when it was produced, he directed Anantaramaiya an official of the Court to examine and take charge of the same. Anantaramaiya reported that the property consisted of gold and silver ornaments and clothes valued at Rs1,810-8-0, besides certain documents. The property was at first deposited in the District Treasury but was subsequently got back on 23rd December 1905. Anantaramaiya ~~was~~ was directed by the Judge to sell the same by auction. The sale was held on a Sunday during the Christmas holidays, and a sum of about Rs2,000 is said to have been realized, but the money was not credited to the Treasury and has not been accounted for.

There is every reason to believe that the money was embezzled by Anantaramaiya. He has committed suicide.

The question for decision is whether the

Record of Cases submitted for the Orders  
of His Highness the Maharaja.

Subject.

16.8.07  
157

Question of the liability of Mr.M.Rama-  
swami Iyer, retired District Judge, to make  
good the loss sustained by the minors in mi  
No.584 of 1903-04 on the file of the District  
Court Mysore, in consequence of the embezzlement  
by Nazir Anantaramia of the sale proceeds of  
the property of the minors.

Order.

145

Sanctioned

141  
21-8-07

~~KRW~~

28/8/07

21/8/07

Put up draft order

CSB

24/8

CS

Serial  
No.

Subd with a draft order to the Secy

SR 31.8.07 mu

31/8/07

49/07. 39 1872

2/9. mu  
3-9.

C508/2)  
3-9-07

L. Draft approved mu 3/9/07

L. Print submitted in mu to Dewan

3/9. mu  
4-9.

with section for  
increasing a treasury }

Proof of the order received from Dewan 13/9/07  
Subd.

SR 14/9/07 Submitted for approval  
to the Dewan.

14.9.07. mu

6367  
16/9/07

L. Proof passed by Dewan P.O. mu

17.9.07

18 Rec + 8 no  
20/9/07

L. Issue mu

18/9 mu  
19.9

Do the Comptroller Mysore Govt  
the Registrar of the High Court  
Mr M. Naraswami Iyer, Ahmednagar  
no 9843-95 of 19.9.07. Direct

Serial  
No.

that the amount realized by the sale of the  
jewels and other property which has not  
been accounted for be recovered from  
Mr. Dhanarwanji Tyagi's Pension in  
monthly instalments of Rs 250; request  
the Chief Court to report the exact amount  
of the loss and awaits the report promised  
by the Chief Court as regards the conduct  
of the other officials of the DC Court  
in the matter.

The records received with the Chief  
Court's letter no 4339 of 6.2.07 have to be  
returned.

Draft Subd.

SN  
10/10/07

Pls type the draft for  
signature.

SN  
10/10/07

To. The Registrar, Chief Court of Mysore.

no. J 1235 of 17.10.07.

— Returns the records received

12 From the same. no 2795/151 of 9.10.07

Forwards for the information of Govt. a  
copy of the Chief Court's Proceedings as required  
in Para 5 of G.O. no. J 983-95.

Subd. This may be filed after perusal.

KN. SN 23/10 147 Submitted to the 1st Cr.

24-10-07

26-10-07

26/10

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Chief Court of Mysore,  
Bangalore, dated 26th November 1906.

From,

V. A. Rajaratna Mudaliar Esq.,  
Registrar, Chief Court of Mysore.

To,

K. S. Chandrasekhara Iyer Esq.,  
Secretary to Government,  
General and Revenue Departments.

Sir,

Adverting to Government Proceedings No. J.II36/Cts.94-06-2 dated 31st ultimo calling for an early report as to the circumstances under which the records relating to the case of the minor children of Deviri deceased were lost, and as to who should be held responsible for the sale proceeds of the jewels sold by the Receiver in the case, I am directed to forward copy of letter No. I652/294 dated 13th instant from the District Judge, Mysore Division, containing a detailed report of the facts connected with the case. The only papers that could not be traced are the sale list and the report of the Receiver on the sale of the jewels in question. No other records are lost or missing.

2. From paras 14 to 17 of the District Judge's letter, it is clear that Mr. Ramaswamy Iyer, the late District Judge of Mysore, failed to take any precautions when he entrusted the jewels to the Receiver. In the case of Anantharamiah deceased, more than ordinary precaution was necessary as, to the knowledge of Mr. Ramaswami Iyer, this official was not absolutely trustworthy. In August 1903, Anantharamiah was found fault with by this Court for not having remitted to the Treasury the amounts of house building advances recovered monthly from an official of the District Court as they were recovered. He paid it in as a lump sum when the whole of the advance had been recovered.

3. The Chief Court agrees with the opinion of the present

District

No. 1652  
294

District and Sessions Court, Mysore.

Dated the 13th November 1906.

From

S. Venkata Varadan Iyengar Esq.,

District & Sessions Judge, Mysore.

To

V.A. Raja Ratna Mudaliar Esq.,

Registrar of the Chief Court of Mysore.

Sir,

I have the honor to acknowledge receipt of your No. 2386/182 dated 3rd instant communicating order of the Government No.J.113-94-06-2 dated 31st ultimo in the matter of the misappropriation of the sale proceeds of the jewels &c., of the minor children of Deviri of Nanjangud. In my letters Nos.703/131 and 1166/208 dated 27th August last and 10th ultimo, I stated briefly the particulars of the case and also submitted the records. But the order of Government would read as if the records were lost. Apparently this is a mistake, for, you returned the records to me with your no.1759/130 dated 1st ultimo. The papers that are not forthcoming are the sale list and report of the receiver.

2. To be able to see the whole case in a connected form, I will here state the facts in detail. Deviri was a Sivachar prostitute residing in Nanjangud. She was attacked with plague about the 16th January 1904. In petition dated 21st idem she asked the Amildar that as she was very ill and there were none to take care of her property and her three minor children, the Government be pleased to take possession of the property, protect the minors, and make over to them all her property after they

attained

attained majority. The Amildar directed the Police to take an inventory of her property in the presence of Panchayetdars and secure the same. On the 21st idem the Police Jamedar took down her statement and a list of the property in the presence of the Panchayetdars, and on the 22nd she confirmed her statement and gave a list of the bonds she had besides her jewels she had lent out.

3. It would appear that she died on the 25th, when a further list of her goods consisting of utensils, plates, furniture, and grain was also taken by the Police, who then took possession.

4. All the property was thus secured. On the 28th idem, one Venkata Lakshmi, a professional prostitute, applied to the Amildar for money for the deceased's obsequies and for the maintenance of the children, stating that she would take care of them and she must be paid for her labour.

5. The Amildar directed that three candies of paddy be given to her out of the grain secured by the Police, and that the three children also be made over to her custody. These orders were carried out and a recognizance was taken from her.

6. While the matters were in this state one Nanjamma applied to the Amildar on 3rd August 1904 for the custody of the children and for the possession of the deceased's property, whereon she was directed to produce a certificate of heirship.

7. In the meanwhile, that is, on the 22nd June 1904, Venkata Lakshmi applied to this court for a certificate of guardianship of the minors and for the management of their property. This was posted for hearing on 12th August 1904 and was opposed that day by Nanjamma above referred to, who claimed to be entitled to the custody of the minors and their property by reason of <sup>near</sup> ~~mere~~ relationship. Issues having been settled, evidence was gone into on the 24th November 1904, and on the 12th December following, the

the then Judge, Mr Ramaswamy Iyer, heard arguments and reserved orders. On the 23rd idem he passed an order desiring the Amildar of Nanjangud to state, if he could select a competent person to take care of the minors and manage their property. This order seems to have been communicated to the Amildar on the 5th January 1905. His report was received in this court on the 23rd idem, but orders were passed on the 13th April to the effect that further reference had been made and reply should be awaited. This reference was issued on the 25th May, and is to the effect that the court was not willing to leave the property or the minors either with petitioner or counter-petitioner, that a competent person from the Thammadi sect should be selected, that the Amildar should put up the property for sale and invest the amount in the Savings Bank and that arrangements should be made for recovering the outstandings due to the estate. The Amildar replied on the 19th June 1905 that nobody of the caste suggested by the court was willing to be the guardian of the minors, but that he could not arrange for filing suits by means of any of his subordinates for the recovery of outstandings, and that as the deceased's goods were included in the Register of Unclaimed Property, the District Magistrate had been requested to permit the same being sold as directed by the court.

8. On the 17th August 1905 the Amildar further reported to the court that the Deputy Commissioner had permitted the sale but that one Dyavamma the daughter-in-law of the deceased Deviri had also preferred a claim and therefore the matter was submitted to the court for orders. The court passed no order on this report.

9. It will be useful to note here, how the question of the disposal of the property went up before the District Magistrate. A new Amildar having taken over charge of the Taluk, he reported on the 20th October 1904 to the District Magistrate, that it was wrong to keep the valuables in the Treasury, and suggested that

they

they should be sold and the proceeds be invested in the Savings Bank, so that the minors might be maintained out of the income. The District Magistrate (Mr. Kantaraj Urs) ruled on the 29th November 1904 that there was no sufficient reason for the Government to take over the property but directed the Amildar to take an inventory of the bonds about to be barred by limitation so that debtors might be questioned as to what they would say about discharging the same. In replying to this the Amildar reported on 21st January 1905 that the District Court had asked him to select a guardian; whereon the District Magistrate required the Amildar to inform him of the further orders of the Court. In report dated 19th June 1905 the Amildar replied what he had reported to the court, and on this, the District Magistrate, (Mr. Sparks) directed the Amildar to sell the property and place the proceeds in the Savings Bank for the benefit of the minors. This Order is dated 7th July 1905, on which, the Amildar directed the issue of proclamation for the sale of the same.

10. Thus it will be seen that both this Court and the District Magistrate had ordered the Amildar to sell the property and this was safe enough in the Amildar's own Treasury. On ~~The~~ 27th July 1905 however (Mr Ramaswamy Iyer) the then Judge of this court recorded an order that the Amildar be requested to report about the property in his possession and other particulars and on receipt of his reply provision would be made for the maintenance and education of the minors.

11. On the 8th September 1905 he issued an order No. 162/63 to the Amildar to send to the court the property (with an inventory) in a corded and sealed box by one of his clerks. On the 10th November 1905 he reminded the Amildar of this requisition and directed him to forward the property forthwith (30.11.05) In telegram dated 1st December 1905 he called on the Amildar to send the same immediately. On the next day, Judicial Gumasta Narasimhaiya of the Amildar's office brought it, and the then

need not have been altered. The District Magistrate had also permitted the Amildar to carry out the orders of the court. The Amildar had further issued proclamation of sale.

15. Besides, Anantharamiya was one whose conduct, ~~was~~ already reported to you in my previous communication, was opened to suspicion in connection with another money matter. The monthly payments made by Head Munshi Ramachandra Naidu from his pay towards the house-building advance he had drawn from Government, was retained by Anantharamiya. In this connection the Chief Court censured him but took a lenient view on the ground that he was about to be retired. But Mr Ramaswamy Iyer, the then Judge continued him in office. There were decrees against him and two or three warrants to attach his pay had also been received in

this court and were being executed in Mr Ramaswami's days. His house had also been openly sold in the Mun-siff's court. Under these circumstances it is very difficult to understand why the ordinary precaution of requiring security from him was not adopted. Property which was safe in the Amildar's Treasury was transfer

red to the custody of a bankrupt without any safe-guard whatever

16. The jewel box which remained in the District Treasury might as well have been allowed to remain there till the date of sale, and the ~~same~~ <sup>sale</sup> might have been ordered to take place on a day when courts and Treasury were open for business. But Mr Ramaswamyier sent for the box from the Treasury on the evening of 23rd December 1905, i.e. when the courts were about to be closed for Christmas Holidays, and left it with Anantharamiya though business could not be attended to for a number of days afterwards. Mr Ramaswamy Iyer was aware that the Treasury would not be opened to receive the sale proceeds if the sale was held during the holidays, and yet allowed it to take place during the latter part of the said holidays on a Sunday. The enquiry now made dis-

remained

\*  
1. Enc: 694/01-2  
mis 167/04-5  
2. Enc: 1241/02-3  
+ 3. Enc: 1351/02-03  
4. Enc: 1758/02-3  
5. Enc: 1797/02-3  
6. Enc: 400/03-4  
all on the file of the  
Pl: Amisiff of Mysore

remained closed. Thus the sale proceeds had to the knowledge of the then Judge to remain with Anantharamiah; <sup>but</sup> ~~but~~ yet steps were not taken to secure the money in the Court iron chest. Mr. Ramaswami Iyer also fixed no date for the return of the sale warrant or the report of the sale nor for the further hearing of the case. Though he was aware that the sale did take place and was actually present for a time when it was going on he did not call on Anantharamiah after the ~~the~~ sale to produce the money, nor adopt any safe guard for its being sent to the Treasury after the holidays were over. Neither did he enquire about it after the Court opened for work nor take any notice of the matter at all. Thus he may be said to have knowingly left it to Anantharamiah to produce the amount whenever he liked, but did not provide against his keeping it for ever.

17. In his undated letter received by me on the 13th July 1906 he states that he received the Receiver's report of the sale and ordered that the sale proceeds be deposited in the Savings Bank but neither of these facts is noted in any Register or the court A Diary. If he received the report he should have received the money also or enquired about it. He does not however say that he did either. The amount was not entered in the Cash Register nor is there anything to show that it was put into the cash chest. He however contends that he is not liable for any act of omission or commission done in his official capacity.

18. Anantharamiya is now dead, having committed suicide. There is no doubt that he misappropriated if not the whole, at least a good part of the sale proceeds. The confidential report which the Deputy Commissioner sent me as to his property is not encouraging. It is heavily encumbered.

19. In considering the question as to whether other sources were available for recoupment, I thought it necessary to ascertain if the purchasers at the auction had paid up the prices. But the enquiry held in this matter showed that there is no reason

with Anantharamiya all the while. As Head Clerk Nanjappa was in charge of the copying Department consisting of examiners and copyists, all of whom were under his control. He wanted to maintain that he did not know if any of these subordinates of his or any other clerk attended the sale, but when questioned in particular he admitted that copyist Ramaswamy was present and offered bids, and that copyist Raghavachar and examiner Venkatappa also attended the sale.

23. Copyist Ramaswamy said that many of his co-officials besides a clerk of the Sub Court by name Ramaswamiya attended the sale, that this clerk of the Sub Court purchased an ear-ring set with rubies and <sup>or</sup> Bagadi ~~of pearls~~ <sup>of pearls</sup>, that he himself purchased a ring at the sale for copyist Narayana Rao and gave it to him, and that copyist Raghavachar also purchased a pair of diamond ear-rings.

24. Clerk Ramaswamiya of the Sub Court gave his statement in a very unwilling manner. He denied having bought any property at the sale but admitted having offered bids and explained that he did so only to raise the prices. This conduct in itself is unbecoming a clerk of a court of Justice. He would not state for what articles or at whose instance he acted as a puffer. He however said that he stopped at the place till the sale was closed that he even totalled up the sale list, and that Nanjappa was seated with Anantharamiya. Unwilling as he is he has said enough to show that Nanjappa did not leave the place during the course of the sale, and must have stayed there till it was closed and the list totalled up.

25. Examiner Venkatappa positively stated that Nanjappa & Anantharamiya both conducted the sale. But copyists Narayanarao and Raghavachar say nothing about Nanjappa though they admit having bought property sold at the time. Seeing, however, that they were under the orders of the Head Clerk Nanjappa it does not appear to me to be strange that they are silent about him.

Copyist Raghavachar would even deny having attended the sale and would assert that Anantharamiya himself bought a jewel for him without his request and forced it on him the next day, for which after all, he paid the price. But this is evidently not credit-worthy and only indicates his anxiety to show that he took no part in the sale and to shield Nanjappa.

26. In the record of the case Nanjappa has noted in his own handwriting " copy sent to Mr A. Ramaiya-1482/395 ". This copy is evidently that of the order directing Anantharamiya to sell the property. In the office ' TO 'Register however he got it entered as if addressed to Mr A. Ramiya, Advocate, and gave an incorrect date, besides an incorrect miscellaneous number of ~~of~~ the case. This gives room to a suspicion that he wanted to draw attention <sup>from</sup> ~~of~~ Anantharamiya to A. Ramaiya, Advocate. There is no advocate of this name. Nanjappa sat with Anantharamiya at the sale and his subordinates and friend were allowed to bid and buy. It is therefore clear to me that Nanjappa can well be said to have taken an active part in the matter of this sale and ~~the~~ does not want to disclose matters in full, either because he had his share of the sale proceeds, or because he wants to save some body else. There was an evident combination between him and Anantharamiya and the former's subordinates as likewise Ramaswami the clerk of the Sub Court (apparently a friend of theirs) joined it. Clerk Ramaswamiya would not have totalled up the sale list if he had been entirely unconnected with this matter.

27. All this band deserves in the interests of Judicial Administration to be broken up. Nanjappa's conduct is more than suspicious. If nothing else, <sup>he connived</sup> ~~at~~ Anantharamiys's doings. His transfer to Shimoga does not seem to have been any punishment at all; for he took leave from the District Judge there, and is working here as the Agent of the Oriental Life Assurance Company. The Government will not be a loser by dispensing with his services altogether. I strongly recommend his dismissal.

28. The conduct of clerk Ramaswamiya of the Sub Court in voluntarily offering spurious bids to raise the prices is thoroughly disputable, and calculated to seriously injure <sup>public</sup> ~~public~~ confidence in Judicial Sales, which ought to be above comment. He has been in service in Mysore for over 10 years; and if not a more ~~severe~~ serious punishment, a change to the Shimoga Division will be conducive of good results. I beg to recommend this transfer and request that a clerk on Rs 30 from the Shimoga Sub Court may be ordered to come here in his stead. New blood is necessary.

29. The question as to whether the copyists above named do not deserve a criminal prosecution for buying property at a -- court-sale while being officers of that court seems (as at present advised) to be beset with difficulty : because, though the then Judge was present, the sale was technically one held by a Receiver and not by the court nor under chapter 19 C.C.P.(section 292). There can however be no doubt that a deal of demoralization will be the result, if no notice is taken of their conduct. They may eventually bid indirectly for the officials concerned in the conduct of the sales. I therefore beg that they also be transferred to courts in other Divisions. A transfer to courts in this Division which I may order, does not seem to me to be sufficiently telling.

30. I have cleared the Court of all disreputable officials. Besides Nanjappa I got rid of Krishna Iyengar, the clerk in charge of Miscellaneous Department. On learning that two of Anantharamiya's distant or near relations were in this court, I transferred one to Hole-Narsipur. The retirement of the Shiras-tedar will be ordered as soon as the Auditor finishes his audit. Every step conducive to restoring public confidence has been taken.

31. In conclusion, I beg to add that whatever might be the result

result of the issue as to who should answer Government for the money, there is no question as to Government being liable to pay it to the minors; and pending further orders I beg to be permitted to advance them ~~Rs~~ 7 a month for their maintenance charges.

*the equivalent more or less of the monthly interest on Rs 2000/-*

The provisional guardian appeared before <sup>me</sup> a few days ago and mentioned her difficulties. I told her that the matter was under the consideration of Government and I ~~expected~~ <sup>expected</sup> early orders. I have arranged for the recovery of the <sup>outstandings</sup> ~~outstands~~ due to the deceased mother of the minors, and the person appointed for the purpose will be permitted to take prompt action as soon as he furnishes security.

32. The whole record is submitted for reference.

I have &c.,

Sd-. S. Venkata Varadan Iyengar,

District Judge.

" Copy ".

*Sd/- S. Venkata Varadan Iyengar*

Registrar.

*hss*

S.R.

N<sup>o</sup> 3563  
192  
21/1/07

urgent

J 1653  
Chief Court of Mysore  
Bangalore 7<sup>th</sup> January 1907

From The Registrar of the  
Chief Court of Mysore

To, H. P. Chandrasekhara Iyer Esqr.  
Secretary to the Government of  
Mysore General and Revenue Deptts.

Sir,

With reference to your N<sup>o</sup> J 1630-cts  
94-06-5 dated 13<sup>th</sup> ultimo, I am di-  
rected to request the return of the re-  
cords submitted with this office N<sup>o</sup> 2916  
150 dated 26<sup>th</sup> November 1906 as the same  
is required for reference.

I have the honor to be

Sir,  
Your most obedient servant  
S. S. Aravastya

For Registrar  
S. S.

N<sup>o</sup> 4339 *Final and Revised*  
218  
10-8-07  
ct 8/2

6  
ct 94-06.

J 1992

Chief Court of Mysore,  
Bangalore, dated 6th February 1907.

From,

V. A. Rajaratna Mudaliar Esquire,  
Registrar, Chief Court of Mysore.

To,

K. S. Chandrasekhara Aiyar Esquire,  
Secretary to Government,  
General and Revenue Departments.

Sir,

With reference to your letter No.J.1630/Cts.94-06-5,

No.A dated  
2-2-07.

dated the 13th:December 1906, I am directed to forward here-  
with, in original, the <sup>x</sup> explanation of Mr.M. Ramaswamy Iyer,  
retired District and Sessions Judge, on the various points  
referred to in the present District Judge's report.

2. The record of M's: application No. 584 of 1903-  
on the file of the District Judge, Mysore is also sent.

I have the honour to be,

Sir,

Your most obedient servant,

*V. A. Rajaratna Mudaliar*

R E G I S T R A R.

*him*

A  
Bangalore,  
2<sup>nd</sup> February 1907.

From

M.Ramaswami Iyer, Esq., B.A., B.L.,  
Retired District & Sessions Judge,

To

V.A.Rajaratna Mudaliar, Esq.,  
Registrar, Chief Court,  
B a n g a l o r e.

Sir,

1. In acknowledging the receipt of your Dockets No.  $\frac{3294}{1902}$   $\frac{3721}{288}$  &  $\frac{4049}{2313}$  with their respective enclosures, I have the honour to submit for the consideration of the Government and the Chief Court that the case under reference (Mis.No.584 of 1903-04) was taken on the file on the application of one Venkatalakshmi to be appointed guardian to the minor children of one Deveeri who had died of plague in Nanjungud leaving some moveable property. This application was opposed by one Nanjamma a distant relative of the deceased Deveeri; taking into consideration all the circumstances of the case I hesitated to appoint either of them as guardian and wrote to the Amildar to recommend a competent person of the locality to act as guardian my object being to remove the minors from the immoral environments of both the women and also suggested that in the event of such a person being found the jewels might be sold and the sale proceeds invested in the Savings Bank and that a Taluk official selected by him might be appointed to recover the outstandings. The Amildar reported that he could not find a competent person willing to undertake the task and I was compelled to appoint the applicant as provisional guardian ~~and~~ on 27th July 1905 subject  
to

net?

to the minors being removed to an Orphanage or to some other respectable association. With this object in view I wrote to Mr.A.Maigundadeva Mudaliar of Bangalore to ascertain whether he could take the minors into his Orphanage and also to Mr.K.P.Puttanna Chetty the President of the Lingayat Conference as the minors are of Thammadee caste (Lingayat) whether he could advise me in the matter. ~~Whether~~ The first gentleman asked me for some details while the second referred me to the Secretary of the Conference. I felt some delicacy in disclosing the antecedents of the minors and drop<sup>ped</sup> the correspondence.

2. In the interval the provisional guardian Venkatlakshmi repeatedly complained to me that she was maintaining the minors out of her own funds and that she had also paid the funeral expenses, etc of the deceased Deveeri. I then wrote to the Amildar to send the property to the Court but as he did not do so in spite of a reminder for over two months I wired to him after waiting for a month more to send the property as the complaints of the provisional guardian became troublesome and as I was also aware that no suitable arrangements had been made by the Court for the maintenance of the minors.

3. The Amildar sent the jewels and other properties in the custody of his Judicial Gumasta and I ordered Anantharamayya the Assistant Nazir to take charge of the same and told <sup>him</sup> that I ~~would~~ <sup>the</sup> ~~will~~ appoint him receiver in the case.

*Amildar's order was followed.*

4. I remember distinctly that the property was delivered <sup>to him</sup> ~~Amildar's~~ on two days. The Judicial Gumasta informed me when I was in Chambers on the first day that he wanted to go back and I told him in the presence of the Sheristadar and Anantharamayya that he could go after handing over charge and that if necessary I ~~will~~ <sup>would</sup> write to the Amildar.

5. After Anantharamayya took charge of the property I ordered him to give his <sup>p</sup> opinion after consulting the ~~pro~~ provisional

provisional guardian and such of the minors as <sup>were</sup> ~~very~~ intelligent enough to understand as to which of the jewels and articles might be sold and which <sup>might be</sup> retained for future use. On receipt of his further report, I ordered that such of the jewels and articles as were not required might be sold, and that he should take steps to recover the outstandings by engaging the services of a Lawyer at Nanjangud and at the same time appointed him as receiver and authorised him in writing to carry out the orders of the Court. The jewels were sent to the Treasury for the safe custody until such time as the receiver <sup>might</sup> require them for sale. They were subsequently obtained from the Treasury and sold by the receiver. I don't recollect the date of sale, it might have been a holiday. I was according to my practice studying files and writing judgments in Chambers. Having been disturbed by a noise in the verandah adjoining the receiver's room I asked what it was about. I was informed that the receiver was selling the jewels in the case in question and went out, saw some jewels and also a large crowd of bidders. I remember that the sale had been duly notified by means of printed hand bills.

6. Subsequently the receiver submitted his report and ordered him to invest the sale proceeds in the Savings Bank after deducting his commission and take steps for the recovery of the outstandings and on a further report (so I remember) as to the requirements of the minors I ordered him to pay Rs.6/- a month for their maintenance ect. and also Rs.250/- or thereabouts on the application of the provisional guardian for their feeding charges until then and the funeral expenses of the deceased Deveeri. I remember that the provisional guardian was present when these orders were passed as also when the receiver was appointed and the jewels were sold.

7. These transactions must have taken place in the ~~late~~ later <sup>t</sup> part of January or in the early ~~part~~ part of February 1906.

and I went to Hassan about the end of February for holding the Sessions but before I finished the Sessions I was transferred suddenly to Bangalore. With the permission of Mr. Justice Staley I finished the Sessions in the ~~early~~ part of March and came to Bangalore went to Mysore attended the Court for a day disposed of urgent papers handed over the charge to the Sherastadar and proceed<sup>ed</sup> to Kolar to finish the Sessions which had been left unfinished by Mr. Venkatavaradan Iyengar who met me at Arisikere on the day I returned from Hassan.

I did<sup>not</sup> hear of this case at all again until Mr. Mr. Venkatamaradan Iyengar wrote to me in July 1906 and my replies to him are <sup>on</sup> ~~under~~ record.

9. The first question raised by the District Judge in para 14 of his letter is that there was no necessity to send for the property from the Amildar or to appoint Anantharamiah as receiver to sell the same and the previous order asking the Amildar to do this work need not have been altered, that the District Magistrate had also permitted the Amildar to carry out the further orders of the Court and he had issued proclamation of sale.

10. I beg to submit, that in the first place I did not order the Amildar to sell the property. I merely wrote to him when I asked him to select a competent person of the locality to act as guardian that, that was my idea. He did not tell me that he had taken steps to sell the property even when I wrote<sup>to</sup> him to send it and sent him a reminder. I donot find any proclamation of sale on record. If he had informed me that he had already taken steps to sell the property, it is quite possible that I might<sup>not</sup> have called for the same.

11. What weighed most with me in sending for the jewels was the hope of realising better prices in Mysore seing that Nanjangud was a very small place.

12. As I was seized of the case and as the Amildar had reported that there was no competent Official in his office to take steps for the recovery of the outstandings I appointed Anantharamiah as receiver under section 503 of the Civil Procedure

Code for selling the property as well as for collecting the outstandings.

3. Regarding the District Judge's observations about Anantharamayya in para 15 I beg to submit that so far as I knew he was an honourable and respectable man. He held very good testimonials from successive District Judges including my immediate predecessor Mr. B. Tirumala Char. He had also served under ~~him~~<sup>me</sup> when I officiated as District Judge of Mysore during the period that Mr. Cress went on furlough. I had no reason to be dissatisfied with his character, conduct or efficiency. He was drawing a handsome salary moving in respectable society and I had heard absolutely nothing against him to arouse my suspicion.

14. I have no personal knowledge of the alleged misappropriation by him of the house building advance of Head Munshi Ramachendra Naidu. It did not occur in my time but the correspondence was brought to my notice by Mr. Justice Ramachendraier in course of <sup>the</sup> ~~a~~ conversation and on my telling him that so far as I knew Anantharamayya was efficient and bore a good character the matter was not pressed further. I gave Anantharamayya an extension because <sup>from</sup> ~~of~~ his long and faithful service and efficiency I thought he was entitled <sup>to the same</sup> and my order was affirmed by the Chief Court.

15. I have absolutely no recollection of the attachment of his pay nor can I be expected to know about the sale of his house by the Principal Munsiff's Court of Mysore.

16. When pay-attachment warrants against officials are received the practice for the judge <sup>is</sup> to order the pay to be withheld and send <sup>to it</sup> to the respective Courts. The official preparing the Pay Abstracts and disbursing the pay is bound to carry out the Judge's order under the supervision of the Sheristadar and unless the matter is brought to the Judge's notice in the form

a complaint by the party concerned or of the Court which issued the warrant the Judge cannot be expected to recollect or to suspect that his order had not been carried out.

17 Coming now to para 16 of the District Judge's letter I beg to submit that the receiver in order to understand the nature and value of the jewels and if necessary to catalogue them and give an opportunity to the intending purchaser of inspecting them prior to sale should have called for them. Since it is admitted that the jewels were sold this point loses all its significance.

18 The receiver had ample authority in ~~his~~ <sup>his</sup> and discretion under the order of ~~the~~ appointment to fix the sale on such day as was convenient to him having regard the nature of his other work. The object of appointing a receiver is to relieve the Court of certain duties and the Court cannot be expected to watch every proceeding on his part unless its attention is specially drawn to any irregularity by the party concerned or by the ministerial head of the office.

19 The receiver's report and the sale list are not forthcoming. It is therefore difficult to say whether any dates had been fixed for reporting the further proceedings of the receiver. He was not bound to pay the sale proceeds into Court nor was it necessary to enter them in the cash and other registers of the Court. If he had conducted the sale not as a receiver but in his individual capacity as an official of the Court the Court was bound to see <sup>to</sup> these matters and remit the amount to the Treasury in its own name to the credit of the case.

20 Regarding the omission of entering the orders of the Court in the proceedings of the case as also in the registers of the Court from time to time the official in charge of the work is primarily responsible. Such matters should generally be checked and corrected by the Sheristadar and his subordinates.

21 I now beg permission to address myself on the legal aspect of the case.

22 Under section 503 of the Civil Procedure Code Courts  
are

Courts are empowered to appoint receivers whenever the circumstances of the case require such appointment. Regarding the security to be taken from them it is entirely discretionary ~~try~~ with the court and is not usually insisted upon when the receiver is a Court Official and an assistant Nazir to boot as in the present case.

23. I have given above the antecedents of the receiver his official position pay and prospects, The business he had to do was little or nothing and the property involved was not of much value.

24. A receiver is bound to carry out the orders of the Court and he is personally responsible for any losses occasioned by his willful default or negligence. It follows from this principle of law that after his death, as in this case, his assets if any are liable for such losses. The circumstance that the assets in this case are heavily encumbered, a fact of which I was totally ignorant, is no reason for supposing that they may not realise the present amount and if it is not so realised the losses must fall on the estate of the minors (17 Madras 501). Nor can this circumstance be used as a ground to make the Judge responsible. It is an established rule of law based on public policy that Judicial Officers are not liable for acts done by them in discharge of their duties provided they act within the limits of their jurisdiction and if beyond their jurisdiction they act in good faith. I need not trouble the Government and the Chief Court with precedents on this subject but to save their time I beg to draw their kind attention to (1 Allahabad 280, 12 Allahabad 115, 10 Madras Law Journal 232 and 7 Bombay Law Reporter 951).

25. The other points referred to in the District Judge's letter do not call for any remarks ~~for~~ <sup>from</sup> me. I may however mention that so long as I remained in the Court I was not aware of any confusion in the Office. I do not however grudge Mr. Venkatavaradan Iyengar the credit of having set everything in order and cleared the office of disreputable officials.

I can only say that during my regime I did my best to get through the heavy work of the Commt as will be evident from the correspondence between me and the Chief Court and from the measures of relief proposed by me and sanctioned by Government on <sup>the</sup> Chief Court's recommendation. Complaints against officials, if any, were promptly attended to and disposed of by me.

26. I am not at all surprised at the present attitude of the officials seeing that I am out of harness. They are either in <sup>L</sup>colusion with the receiver as interested parties or they have abandoned their honesty. The Sheristadar denied all knowledge of the matter and made it appear as a personal one between me and the receiver. I have already stated that he was present when I told Anantharamayya that I would appoint him as receiver and ordered him to take charge of the property.

27. The provisional Guardian herself admits that she complained to him about the non-payment by the receiver of the balance ordered by the Court and that he promised to look to it and pacified her. The Sheristadar was never on leave in November, December, January, February & March until I delivered over charge and the fact that he did not sign the Cash Book on certain days though they have been signed by <sup>his</sup> the Judge prove nothing but/negligence and indifference.

28. I beg further to add that so far as my knowledge of law goes I cannot concur with Mr. Venkatavaradan Iyengar's dictum that "there is no question as to Government being liable to pay the amount to the minors," because from the authorities quoted above it will be seen that neither the Judge nor the Government is liable for the loss but only the receiver.

29. I now beg to return with thanks the records of the case so kindly sent to me and to express my gratitude and obligation

~~-(10)-~~

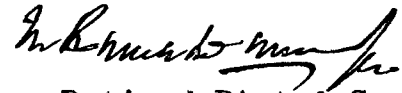
-(9)-

obligation to the Government and the Chief Court for having  
given <sup>me</sup> this opportunity to explain myself.

I have the honour to be

Sir,

Your most obedient servant,

A handwritten signature in dark ink, appearing to be 'H. K. M. S. J.', written in a cursive style.

Retired Dist. & Sessions Judge

*File  
105*

Cb File No. 94.26  
Serial No. 7

Diary No. of letter replied to 7 1992

No 22677  
Enc. 1 + 2 files

General and Revenue Secretariat

( *cf* )  
the 190

To  
The Registrar of the Chief  
Court in Mysore

Date of issue 5.3.07

Signed by Mr Hambrook

Sir, *herewith*  
In forwarding the  
enclosures received with  
your letter no 4339 dated the  
218  
6<sup>th</sup> February 1907, I am directed  
to invite ~~your~~ reference to  
para 3 of your letter no  
2916 dated the 26<sup>th</sup> November 1906  
150  
and to request you to be so  
good as to favour Government  
with the views of the Chief  
Court on the various points  
urged by Mr A. M. Ramaswamy  
Iyer, Retired District and Sessions  
Judge, in his explanation

*81 (11)*

over

SUBJECT.

in the loss of the records and  
the misappropriation of the sale  
proceeds of the jewels relating to  
the case of the minor children  
of the deceased person

I have etc.

W. W. L.  
Is Secretary

2nd SN  
19/12. 20/12

2 - A copy of the  
Proceedings of the  
Court in respect  
of the minor officials  
referred to at para 5  
of your letter of 29/12  
above cited may  
also be kindly  
sent for the info  
of the  
J. W. L.

26 Dec 07

List of enclosures

Copied by K. S. H. 2/3 + recd up  
Examined by SN  
W. B.

5873 L: 342/4. cts  
271  
8  
Cb 94-06

J 2679

Bangalore, 17th April 1907.

From

V.A.Rajaratna Mudaliar Esquire,  
Registrar, Chief Court of Mysore.

To

K.S.Chandrasekara Iyar Esquire,  
Secretary to the Government of Mysore,  
Genl. and Rev. Departments.

Sir,

Adverting to your letter No. J.2677-Cts.94-06-7 dated 5th Ultimo, I am directed to forward copies of the opinions of the Judges in regard to Mr. Ramaswami Iyar's explanation.

2. The matter referred to in the latter part of your letter has not yet been disposed of, and as soon as it is done, copy of the order passed will be forwarded for the information of Government.

3. The enclosures to your letter under reply are herewith returned.

I have the honor to be,

Sir,

Your Most Obedient Servant;

  
REGISTRAR.

*mim*

52

The Chief Judge.-- The late District Judge's explanation is most unsatisfactory. It shows that he exercised no proper supervision over his establishment and the result was that, not long after his departure, the office was found to be in a state of utter disorganization. To show how willfully blind the late District Judge was to what was going on in his office, it is sufficient to refer to the paras of his letter, giving his explanation with respect to the remarks of the present District Judge in para 15 of his letter in re Anantaramiah.

Sd/ L. Moore,

Chief Judge, 15-3-07.

Mr. Justice H.V. Nanjundayya.-- I am of the same opinion. A presiding officer cannot take shelter under the heavy judicial work falling on him to evade the duty of supervising his subordinates in office. When Mr. Ramasvami Iyer on his own suggestion made Ananta Ramayya a receiver, he should have taken pains to enquire whether he could be safely entrusted with property of which the value, though perhaps small enough in his estimation, was quite considerable both for the persons entitled and for the receiver.

But Government seem to require our opinion also on the question of Mr. Ramasvami Iyer's liability. If this is required, I think there is much to be said for the view urged by him, and as there is no suggestion anywhere that the late Judge's conduct was tainted with any improper motives, perhaps the decision should be in his favour. But if the learned Chief Judge considers that this is a matter on which we should not give any opinion extra-judicially, we may say so, and leave the Government to dispose of the matter as they think best.

Sd/ H.V. Nanjundayya,

Judge, 20-3-07.

I am clearly of opinion that there was a gross dereliction of duty in this case, and <sup>that</sup> to that dereliction must be attributed the loss that has resulted to the minors. The statement of Mr. Ramaswamy Ayyar that he had appointed Anantha Ramiah to be Receiver of the minors' properties, is not borne out by the record - no such order is to be found therein. His arguments, therefore, founded on the assumption that such an appointment was made, lose much of their force.

Mr. Ramaswamy Ayyar admits in his explanation that, if Anantha Ramiah was not acting as a Receiver, but as an <sup>+</sup>official of the Court, he (the Judge) was bound to see that the sale of the properties was properly conducted and that the sale proceeds were duly remitted to the Government Treasury. If this view were adopted, Mr. Ramaswamy Ayyar would be liable to make good the loss that has been occasioned to the minors' estate by his not taking the necessary steps to guard the minors' interests and to see to the proper application of the sale proceeds, ~~Since~~ it has been shown that Anantha Ramiah was not acting as Receiver.

Mr. Ramaswamy Ayyar will certainly not be liable to a civil action at the instance of the minors, for, although the British Indian Act XVIII of 1850 is not in ~~so~~ force in Mysore, on general principles Judicial Officers acting within the limits of their jurisdiction must be protected against actions brought by suitors for damages which they consider they have suffered by the judicial acts of such officers. On this point there is hardly ~~any~~ <sup>a</sup> difference between the Indian Law and the law in England which, I believe, will be followed in this State as being in consonance with equity and good conscience.

But the question is not whether a civil action will lie against Mr. Ramaswamy Ayyar, but whether the Government are not either legally or morally bound to make good to the minors the loss that has been occasioned to them, and whether as a servant appointed by the State and while exercising the functions allotted to him <sup>as</sup> ~~of~~ such servant, Mr. Ramaswamy Ayyar is not responsible to the State for the consequences of an abuse of those functions or of a gross dereliction of the duty which he was called upon to perform. These are questions which are not altogether free from doubt or difficulty. But similar questions, I understand, came up for decision before Government some time ago and received a solution at their hands. If so, it is hardly necessary for us now to express our opinion on it.

Sd/ P.S. Krishna Rau,

Judge.

17-4-07.

Copy

  
REGISTRAR.

*him*

*Proceedings of the Government of His Highness the Maharaja of Mysore,*

READ—

1. Letter No. 2916—150, dated the 26th November 1906, from the Registrar, Chief Court, reporting the loss of the sale-proceeds of jewels and other property belonging to one Deviri, a deceased prostitute of Nanjangud, which were ordered to be sold by the District Judge of Mysore in Mis. Case No. 584 of 1903-04, and pointing out the want of due care on the part of Mr. M. Ramaswami Iyer, the Presiding Judge of the Court, in dealing with the case, and requesting the orders of Government as to the reimbursement of the amount of the loss to the minor children of the deceased.

2. Government Proceedings No. J. 1586-7—Cts. 94-06-4, dated the 8th December 1906, sanctioning, as recommended by the Chief Court, an advance of Rs. 50 for payment to the minor children of Deviri for their maintenance, pending final orders in the matter of the reimbursement of the sale proceeds of the jewels, etc., ordered to be sold by the District Judge, Mysore, in the above case.

3. Letter No. A, dated the 2nd February 1907, from Mr. Ramaswami Iyer, Retired District Judge of Mysore, explaining his conduct and pointing out that neither the Government nor himself is liable for the loss, but that it should be Recouped from the Receiver by whose default or negligence such loss was occasioned, failing which the loss must fall on the estate of the minors.

4. Letter No. 5873—271, dated 17th April 1907, from the Registrar, Chief Court, forwarding copies of the opinions of the Judges of the Chief Court in regard to Mr. M. Ramaswami Iyer's explanation.

5. Government Proceedings No. J. 398-99—Cts. 94-06-40, dated the 6th August 1907, sanctioning a further advance of Rs. 200, in part recoupment of the amount due to the minors.

No. J. 893-95—Cts. 94-06-9, DATED BANGALORE, 19TH SEPTEMBER 1907.

ORDER THEREON.—The facts of the case are as follows :—

One Deviri, a Sivachar prostitute residing at Nanjangud, was attacked with plague on the 16th January 1904 and died on the 25th idem, leaving three minor children and some moveable property. At her request during her illness, the Police, under the instructions of the Amildar of the taluk, took charge of the above property and secured the same. Subsequently on the 22nd June 1904, the question of the right to the guardianship of the children and to the management of the property came up for adjudication before the District Judge of Mysore in Mis. Case No. 584 of 1903-04. The then Judge, Mr. Ramaswami Iyer, made a reference to the Amildar and had the property produced in his Court on the 2nd December 1905, and directed Anantaramaiya, Assistant Nazir of his Court, to examine and take charge of the property, which consisted of gold and silver ornaments and clothes estimated at Rs. 1,810-8-0, besides fourteen documents. The property was first deposited in the District Treasury but was subsequently got back on the evening of the 23rd December 1905 for sale, and Anantaramaiya was directed by the Judge to sell the same by public auction. The sale was held on a Sunday during the Christmas holidays and a sum of over Rs. 2,000 is said to have been realised, but the money was not credited to the Treasury and has not been accounted for. There is every reason to believe that the money was embezzled by Anantaramayya. He has, however, committed suicide and his property is said to be heavily encumbered.

2. From the facts cited, it is evident that Mr. Ramaswami Iyer allowed the box containing the jewels, etc., to be sent for from the Treasury when the Courts were about to be closed for the Christmas holidays, allowed the sales to take place on a close public holiday, took no steps whatever to secure the sale proceeds and adopted no safeguards for their being sent to the Treasury after the holidays were over; moreover, the records of the case do not show that the District Judge formally appointed Anantaramaiya as a Receiver to the estate. In his explanation, Mr. Ramaswami Iyer says that, as he appointed Anantaramayya as a Receiver in the case, he was not bound to watch every proceeding of his, unless attention was specially drawn to any irregularity by the party concerned and that, as the Receiver had not accounted for the property, the loss should be made good by him or recovered from his assets; and that neither he nor the Government are liable to make good the loss.

3. Government fully agree with the Chief Court in their opinion that there has been a gross dereliction of duty on the part of Mr. Ramaswami Iyer, to which must be attributed the loss that has resulted to the minors. Mr. Ramaswami Iyer's

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*Judicial (Courts), dated 19th September 1907.*

---

explanation is, as observed by the Judges, most unsatisfactory and loses much of what force it has by the fact that there is nothing on record to show that Ananta-ramaiya was formally appointed as a Receiver. It has been laid down in Government Proceedings No. J. 1372-3, dated the 5th March 1903, that the presiding officer of a Court "is also liable to make good amounts embezzled through his carelessness in supervision and failure to apply the ordinary checks." Whatever may be the legal rights of the minors in question to recover the value of the property by a Civil suit, Government are of opinion that they are morally bound to reimburse to the minors the value of the property lost and that Mr. Ramaswami Iyer is responsible to Government for the consequences of a gross dereliction of his duty as a Government servant; and they accordingly direct that the amount realised by the sale of the jewels and other property which has not been accounted for (estimated at over Rs. 2,000) be recovered from Mr. Ramaswami Iyer's pension in monthly instalments of Rs. 250. The Chief Court will be requested to ascertain as accurately as possible the exact amount of the loss and intimate the same to Government.

4. The advance of Rs. 250 sanctioned in the Government Proceedings read above, for the maintenance of the minors, will be adjusted by the Comptroller from recoveries made from Mr. Ramaswami Iyer as directed above.

5. The report promised by the Registrar of the Chief Court in para 2 of his letter No. 5873—271, dated the 17th April 1907, as regards the conduct of the other officials of the District Court in connection with the present case, should be forwarded for the information of Government.

C. S. BALASUNDARAM IYER,  
*Offg. Secy. to Govt., Gen. & Rev. Depts.*

To—The Comptroller, Mysore Government.  
 The Registrar of the Chief Court of Mysore.  
 Mr. M. Ramaswami Iyer, Retired District Judge, Bangalore.

Exd.—c. v

1907-08

GOVERNMENT OF HIS HIGHNESS  
THE MAHARAJA OF MYSORE

JUDICIAL (COURTS)

PROCEEDINGS

*Dated 19th September 1907*

No. J. 893-95  
Cts. 94-06-95

Passes orders in the matter of the loss of the sale proceeds of jewels and other property belonging to one Deviri, a deceased prostitute of Nanjangud, which were directed to be sold by the then District Judge of Mysore, Mr. M. Ramaswami Iyer, in Mis. Case No. 584 of 1903-04 on the file of his Court.

05.94-86  
9

3

File No. 94

Serial No. 9

Diary No. of letter replied to \_\_\_\_\_

Proceedings of the Government of His Highness  
the Maharaja of Mysore.

GENERAL AND REVENUE  
SECRETARIAT.

( )

READ—

, the

190

Date of issue

Signed by

19/28/907  
M. N. R.

1. Letter No.  $\frac{2916}{150}$  dated the 26<sup>th</sup> Nov. 1906 from the Registrar, Chief Court - reporting the loss of the sale-proceeds of ~~the~~ jewels and other property belonging to one Deviri, a deceased prostitute of Nanjangud which were ~~ORDER THEREON~~ No. ordered to be sold by the District Judge of Mysore in Mis. Case No 584 of 1903-04 and pointing out the want of due care on the part of Mr. M. Ramaswamy Iyer, the presiding judge <sup>of the Court</sup> ~~in that case~~ in dealing with the case, ~~entrusted the sale of valuables to~~ Nazir Anantaramappa on <sup>close</sup> over

SUBJECT

~~holiday~~ and requesting the orders of the Govt. as to the re-embursement of the amount of the loss to the minor children of the deceased.

2. Govt. Pro. No J 1586-7  
Cts 94-06-4

dated the 8<sup>th</sup> December 190~~6~~<sup>7</sup> sanctioning as recommended by the Chief Court and advance of Rs. 50 for payment <sup>for</sup> ~~on account of~~ their maintenance to the minor children of Deviri in pending final orders in the matter of <sup>the</sup> reimbursement ~~part~~ <sup>of</sup> the sale-proceeds of <sup>the</sup> jewels &c. ordered to be sold by the District Judge, Mysore in the above case.

3. Letter No A dated the 2<sup>nd</sup> Feb.

1907 from Mr. M. Ramaswamy Iyer, Retired District Judge of Mysore — explaining his conduct ~~in the affair~~ <sup>in the matter</sup> by pointing out that neither the Govt. nor himself is liable for the loss but that it should be recouped from the Receiver by whose default or negligence such loss was occasioned, failing which the loss must fall on the estate of the minors.

4. Letter No 5873 dated 17/4/07  
271

GENERAL AND REVENUE  
SECRETARIAT.

(Continuation Sheet draft form.)

9893-95  
no 7730-32 21/10/90  
8574-06-91 (M. V. M.)

from the Registrar, Chief Court  
— forwarding copies of the  
opinions of the Judges of the  
Chief Court in regard to Mr.  
M. Ramaswamy Iyer's explana-  
tion.

— 5. Govt. Pro. No 8348-99  
Cts. 94-06-10  
dated the 6<sup>th</sup> August 1907 —  
sanctioning a further advance  
of Rs. 200 in part recoupment  
of the amount due to the minors

— Order thereon - No

— The facts of the case are  
as follow:—

— One, Deviri, a Sivachar  
prostitute residing at Nanjan-  
gud was attacked with Plague  
on the 16<sup>th</sup> January 1904 & died  
on the 25<sup>th</sup> idem, leaving 3  
minor children and some  
movable property. At her  
request <sup>during her illness</sup> ~~before her death~~, the  
Police under the instructions  
of the Amildar of the Taluk  
took charge of the above property  
and secured the same. ~~Thereon~~  
<sup>Subsequently</sup> ~~while~~ on the 22<sup>nd</sup> June 1904  
the question of the ~~1st~~ ~~to~~

the guardianship of the children and to the management of the property came up for adjudication before the District Judge of Mysore in Mis. Case No 582 of 1903-04. The then Judge Mr. Ramaswamy Iyer made a reference to the Amildar on the 25th May 1905 to put up the property for sale, to invest the proceeds in the Savings Bank, to find a competent person to take care of the minors & the management of the property and to make arrangements for recovering the outstandings due to the estate. The Amildar replied on the 19th June 1905 that he could not arrange for filing suits, that no competent person could be found to take care of the property and that he had requested the District Magistrate for permission to sell the deceased's goods. The District Magistrate in his order dated the 7th July 1905 directed the Amildar to sell the property and place the proceeds in the Savings Bank for the benefit of the minors. The Amildar thereupon directed the issue of proclamation for the same. Later on, however, the District Judge

GENERAL AND REVENUE  
SECRETARIAT.

(Continuation Sheet draft form.)

called on the Amildar to send <sup>produced in his</sup> the property <sup>and had</sup> to his Court ~~by~~ on the 2<sup>nd</sup> Dec. 1905, Judicial Magistrate Narasimhaiah of the Amildar's Office brought it in person. The District Judge, Mr. M. Rama- <sup>and</sup> ~~swamy~~ <sup>Asst</sup> directed Ananta- ramayya, Nazir of his Court to examine and take charge of the ~~same~~ <sup>property</sup>, which Ananta- ramayya <sup>of</sup> reported that the property con- sisted of gold and silver orna- ments and clothes estimated at Rs. 1810-8-4 besides 14 docu- ments. The property was first deposited in the District Treasury but was subsequently got back on the evening of the 23<sup>rd</sup> Dec. 1905 for sale and Anantaramayya was directed by the Judge to sell the same by public auction. The sale was held on a Sunday during the Christmas holidays and a sum of <sup>over</sup> Rs 2000 is said to have been realised, but the money was not credited to the Treasury and has not been accounted for. There is every reason to believe that the money

was embroiled by Anantaramayya. He has however committed suicide and his property is said to be heavily encumbered.

2. The question for decision is whether the Govt. should make good the loss to the minors <sup>and whether</sup> ~~and~~ if so where the money is to come from.

V. From the facts cited it is evident that Mr. Ramaswamy Dyer <sup>allowed</sup> ~~sent~~ for the box containing the jewels <sup>to be sent for</sup> from the Treasury when the Courts were about to be closed for the Christmas holidays, allowed the sales to take place on a <sup>close</sup> public holiday, took no steps whatever to secure the sale-proceeds and adopted no safeguards for <sup>their</sup> ~~the~~ being sent to the Treasury after the holidays <sup>moreover the records of the case do not</sup> ~~show~~ <sup>also</sup> that the <sup>originally</sup> ~~judge~~ appointed Anantaramayya as a receiver to the estate. In his explanation, Mr. Ramaswamy Dyer says that as he appointed Anantaramayya as a Receiver in the case, he was not bound to ~~watch~~ watch every proceeding of his unless attention was specially drawn to any irregularity by the party concerned and that as they <sup>Receiver</sup> had not accounted for the property, the loss should

GENERAL AND REVENUE  
SECRETARIAT.

(Continuation Sheet draft form.)

be made good by him or recovered from his assets; and that neither he nor the Govt. <sup>is</sup> ~~was~~ liable to make good the loss.

3 ~~4~~. The Govt. fully agree with the Chief Court in their opinion that there has been a gross dereliction of duty on the part of Mr. Ramaswamy Iyer to which must be attributed the loss that has resulted to the minors. ~~Mr.~~ Ramaswamy Iyer's explanation is, as observed by the Judges, most unsatisfactory and loses much of what force it has by the fact that there is nothing on record to show that Anantaramayya was formally appointed as a Receiver. It has been laid down in Govt. Pro. No. J 1372-3 dated the 5<sup>th</sup> March 1903 that the presiding <sup>of account</sup> officer is also liable to make good amounts embezzled through his carelessness in supervision and failure to apply the ordinary checks." Whatever may be

the legal rights of the minors in question to recover the value of the property by a civil suit, Govt. are of opinion that they are morally bound to reimburse to the minors the value of the property lost and that Mr. Ramaswamy Iyer is responsible to Govt. for the consequences of a gross dereliction of his duty as a Govt. servant; and they accordingly direct that the <sup>redressed by the sale of the jewels</sup> amount, <sup>other property</sup> estimated at over Rs 2000] be recovered from Mr. Ramaswamy Iyer's pension

in monthly instalments of Rs. 250. The Chief Court will be requested to ascertain as accurately as possible the exact amount of the loss & ~~and~~ intimate the same to Govt.

4. §. The advance of Rs. 250 sanctioned in the Govt. Proceedings read above for the maintenance of the minors <sup>will</sup> should be adjusted by the Comptroller by ~~deducting~~ <sup>being</sup> ~~in the amount due to the minors.~~ from recoveries made from

Mr. Ramaswamy Iyer as directed above.

5. §. The report promised by the Registrar of the Chief Court in Para 2 of his letter No. 5873 <sub>271</sub> dated the 17<sup>th</sup> April 1907 as regards the conduct of the <sup>other</sup> officials of the District Court in connection with the present case should

G.R.S. 27]

GENERAL AND REVENUE  
SECRETARIAT.

(Continuation Sheet Draft form.)

be forwarded ~~for~~ the information  
of Govt.

SN  
31/5/07

CRB  
2/9  
To ~~mail~~ Offg. Secretary.

1. The Comptroller, Mysore J.M.
2. The <sup>Registrar of the</sup> Chief Court. of Mysore
3. Mr. M. Ramaswamy Iyer,  
Retired St. Judge, Bangalore

Attto  
Mysore

Pres copy typed  
Hunt  
5/9  
Sd/-  
5/9

Diary No. of letter replied to J 2672

General and Revenue Secretariat

( *65* )  
 , the 190

To

*The Registrar of the Chief  
 Court of Mysore.*

Date of issue 17-10-07

Signed by

*K. Mylar Rao*

Sir,

I am directed to  
 return herewith the

- 1) *ms. application 205849/1903-4*  
 2) *ms. application 20409/1906-7*  
*on the file of the Judge of Mysore*
- marginally noted record  
 received with your letter  
 No. 4339 dated the 6<sup>th</sup> Feb 1907  
 218.*
- I have etc*

(sd) *K. Mylar Rao*

*For Secretary*

*ms*  
*9/10/07*

*Copied  
 11/10/07*

*Red SM  
 11/10/07*

SUBJECT.

ver.

Ms. 2795  
151

J 1004

Bangalore

12  
2694-06-12

9th. October 1907.  
10

From,

V.A.Rajaratna Mudaliar Esq.,

Registrar,

Chief court of Mysore.

To,

C.S.Balasundaram Iyer Esq.,

Offg.Secretary to the Government of Mysore,

General and Revenue Departments.

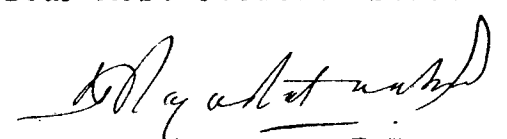
Sir,

With reference to para 5 of Government Proceedings  
No. J 893-95 Dated 19th. ultimo, I am directed to forward for  
the information of Government a copy of this Court's Proceed-  
ings No. 2794 Dated 9<sup>th</sup> Instant -  
247

I have the honor to be,

Sir,

Your most obedient servant;

  
REGISTRAR.

M.A.

al

No. 2794  
247

Proceedings of the Chief Court of Mysore.

Bangalore, Dated 9th. October 1907.

Read;-

Latter part of letter No. 1652 Dated 13th. November 1906  
294

from the District Judge, Mysore, regarding the conduct of certain Officials and Copyists in connection with the of embezzlement by deceased Anantarama, late Assistant Nazir of his Court.

The Officials whose conduct is brought to the notice of this Court in the above are:-

- (1) Nanjappa, Deputy Munshi, acting duty as English Head Clerk in the District Judge's Office, Mysore.
- (2) Clerk Ramaswami of the Subordinate Judge's Court, Mysore.
- (3)&(4). Copyists Ramaswami and Raghava Chari.

The first Official Viz., Nanjappa was on the 7th. July 1906 transferred to Chinnagaling to the unsatisfactory nature of his work in Mysore. Further punishment is considered unnecessary in his case.

It will be sufficient in the case of the other subordinates if the District Judge will warn them and look after ~~carefully~~ their work carefully in future.

(Signed) V. A. Rajaratnam

H.A.

REGISTER

To,

The District Judge, Mysore

Copy  
to Raja's Court  
Registrar

CS